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TAGS: PGOV PHUM PREL OSCE TU

SUBJECT: TURKEY: PROSECUTOR OPENS CLOSURE CASE AGAINST
PRO-KURDISH DTP PARTY

REF: ANKARA 2774

Classified By: Political Counselor Janice G. Weiner, reasons 1.4 (b), (d)
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¶11. (C) Summary and comment. Turkey's top prosecutor filed an indictment with the Constitutional Court on November 16 to close down the pro-Kurdish Democratic Society Party (DTP) for alleged ties to the terrorist Kurdistan Workers' Party (PKK).

The indictment calls for a ban against DTP participating in elections while the case is pending, and for 221 party members, including eight sitting MPs, to be banned from politics for five years once the party is closed. DTP members called the action a setback for democracy, and have organized rallies in several southeastern cities under banners reading "Enough." Prime Minister Erdogan called the move a blow to democracy, while the main opposition parties welcomed the prosecutor's action. Turkish columnists were divided, with several commenting that while DTP had brought the case upon itself, history demonstrated that party closure was a strategy designed to fail. Many see a closure case as playing into the PKK's hands, closing off avenues for a political solution and re-igniting ethnic tensions in the Southeast that could revive PKK's flagging support and undermine government efforts to stabilize the region. Such an outcome might also reduce growing AKP support with southeastern voters -- a result the PKK, DTP and, some argue, the secular judiciary, would consider an added bonus. End summary and comment.

Chief Prosecutor Launches Closure Case

¶12. (U) Abdurrahman Yalcinkaya, Chief Prosecutor of Turkey's Court of Appeals (the Yargitay), filed a case on November 16 with the Constitutional Court to close down the pro-Kurdish DTP for its alleged ties with the PKK. DTP currently holds 20 seats in the 550-seat Parliament, the minimum number required to establish a party group. The 120-page indictment documents 141 DTP statements and actions by party members to support the allegation that the DTP "has become the center of separatist activities against the indivisible unity of the state and the nation." The indictment notes that DTP members have referred to the PKK as "a valid interlocutor" and its members as "brothers," and said, "We are the party of Ocalan." It also notes that three DTP deputies traveled to northern Iraq for the release of eight Turkish soldiers

abducted by the PKK and allegedly used the event for propaganda purposes. The indictment requests that the Constitutional Court prevent DTP from participating in any elections while the case is pending, and bar 221 members of the party, including eight sitting MPs, from participating in politics for five years after the party is closed.

¶3. (U) The case against DTP is the fifth in a succession of cases to close DTP predecessor parties: the People's Labor Party (HEP) in 1990, the Freedom and Democracy Party (OZDEP) in 1993, the Democracy Party (DEP) in 1994, and the People's Democracy Party (HADEP) in 2003. According to legal contacts, the Constitutional Court will now assign a court rapporteur who will review the indictment and recommend whether to accept or reject it. If accepted, DTP will have one month to file a defense brief, to which the prosecutor will respond. The eleven-judge Court will then hold a hearing where both sides may present their case by calling witnesses and making legal arguments. The Court will deliberate and vote; seven votes (3/5ths) are required to close the party.

¶4. (C) Contacts disagree on how long the case will take to play out. DTP Mus MP Sirri Sakik told us he expects the case to drag on for years, noting that the 2003 case to close HADEP is still pending. DTP MP Akin Birdal said that whether the case lasted "three months or three years" would depend solely on political maneuvering. Attorney Fatma Gulay Guner, a retired criminal and civil judge, and her partner Mujde Avcioglu reflected the sentiment of most of the judicial establishment when they told us the Constitutional Court would close down the party within three or four months.

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DTP Reacts With Indignation

¶5. (C) Newly elected DTP leader Nurettin Demirtas reacted immediately to the closure case, stating publicly that banning the party would only aggravate the Kurdish problem. Demirtas told the press, "If they can demonstrate that closing the party will solve the problem or at least stop the bloodshed, then we will dissolve our party on our own and leave Parliament." Sakik told us the case is "a project to obstruct a democratic solution and hinder the process of integration with the EU." The judiciary is trying to hurt not only DTP but also AKP, he added. Birdal commented that, given the nationalistic ideological bias of the judiciary, no one in DTP was surprised by the case. Birdal believes the case will strengthen the unity and determination of DTP members. He noted that DTP, if disbanded, could easily reconstitute under the banner of an alternate party they had created in 2003 called the "Free Society Party" (OTP). DTP's Siirt deputy Osman Ozcelik noted that closure of DTP's predecessor parties had only harmed democracy; it had brought about no positive results.

¶6. (U) Over the November 17-18 weekend, DTP held several demonstrations in the Southeast with the theme "Enough." At a November 17 rally in Van, approximately 3,000 DTP supporters cheered former DEP MP Leyla Zana as she criticized efforts to close DTP. Police broke up the gathering and arrested 25 demonstrators when some attendees displayed posters of imprisoned PKK leader Abdullah Ocalan and PKK flags and began chanting pro-Ocalan slogans. Zana told 6,000 supporters at a November 18 rally in Batman that Kurdish people are losing patience and closing down a party will not resolve the problem. Police detained 20 demonstrators who were chanting pro-PKK slogans. In Urfa, a group of 200 DTP members chanting pro-PKK and pro-Ocalan slogans made a press statement protesting the closure case.

AKP Opposes Closure of DTP

¶7. (U) Prime Minister Erdogan told reporters that closing DTP would be a blow to democracy. "The path of democratic struggle using legitimate political platforms, not mountains, must be chosen," he stated. Minister of Justice Mehmet Ali Sahin said he was displeased by the news and that "Turkey must get rid of its image as a graveyard for political parties." AKP Whip Sadullah Ergin, noting that he was provincial chairman for AKP-predecessor Refah and Faazilet parties when they were closed by the Constitutional Court, told us that closing DTP would not solve the PKK problem. Parliament Speaker Koksal Toptan took a neutral stance, saying only that the legal process needs to play itself out.

Opposition Parties Favor DTP Ban

¶8. (U) Opposition parties reacted positively to the closure case, using the news to boast about their nationalist credentials. Kemal Kilicdaroglu, deputy parliamentary group leader of the main opposition Republican People's Party (CHP), told the press that all political parties, including DTP, must remain loyal to the basic institutions of the Republic and refrain from breaching the constitution. CHP Vice Chairman Mustafa Ozyurek said DTP's behavior and rhetoric suggested the party was asking to be closed. However, CHP leader Deniz Baykal said that "none of us want" the closure case against DTP, but if a party rejects referring to the PKK as a terrorist organization when the whole world recognizes it as such, there is a problem. The Nationalist Action Party's (MHP's) deputy group leader Oktay Vural said the case was in line with MHP's bill aimed at waiving parliamentary immunity in cases against deputies charged with undermining the unity of the country. MHP recently filed a motion to have the Speaker's office forward the request to lift the parliamentary immunity of 74 deputies, including many DTPers, to parliament's Constitution and Justice Joint Commission for decision. Democratic Left

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Party (DSP) leader Zeki Sezer criticized DTP for failing to denounce the PKK as terrorists and squandering its opportunity of being in parliament.

Press Reaction Mixed

¶9. (U) The news brought predictable cheers from the ultranationalist press but also engendered thoughtful commentary on what the move would mean for combating the PKK and improving conditions in the Southeast. Ultranationalist "Yeni Cag's" Altemur Kilic wrote that shutting down a party of separatists who exploited democracy was legal and necessary. Moderate columnist Yusuf Kanli of the "Turkish Daily News" noted that DTP "has grossly failed" in its stated mission of peaceful dialogue and had instead "just become the propaganda tool of the separatist band in Parliament." But Kanli acknowledged that solving the Kurdish problem through military measures was impossible; only stepped-up reforms can solve the problem. "Hurriyet's" Fatih Cekirge wrote that jailed PKK leader Ocalan is attempting to elevate tension by replacing moderate DTP chairman Ahmet Turk with a more extreme figure who will depict Turks as the Kurds' enemies. Cekirge called on all Turks to avoid falling into this trap. According to "Sabah's" Hasan Bulent Kahraman, even though the link between the DTP and PKK is no secret, closing the party has not worked in the past and would be a mistake.

¶10. (U) Many commentators agreed that party closure would bolster the PKK without improving conditions in the Southeast. "Hurriyet's" Yalcin Dogan and "Referans'" Cengiz Candar both warned that closing the party would merely play into the PKK's hands. Human rights activist Baskin Oran

wrote in "Radikal" that closing five different Kurdish parties since 1971 had not solved the problem because such action leaves Kurds only two options: turn into a Turk or go to the mountains (and join the PKK). Oran posited a third way: Kurds should accept a "supra-identity" that does not deny Kurdish rights, and the state should respect the Kurdish "sub-identity". "Radikal's" Murat Belge emphasized the importance of maintaining dialogue, citing Spain and Northern Ireland as examples of countries that rely on dialogue rather than party closures to undermine terrorists. Even in the Israeli-Palestinian conflict talks had continued. "Not to talk has never been a solution," according to Belge.

Possible Reprieve Under a Revised Constitution

¶11. (C) Sakik and Birdal told us that despite AKP leaders' references to Turkey's cultural "richness," the party had failed to take concrete actions to allow Kurds to express their culture. Both said AKP should take such action now by adopting a new constitution that strengthens cultural rights and protects political parties from repeated closure cases. Sema Kilicer, a human rights expert at the EU Commission's Ankara office, noted AKP's draft constitution, if adopted, could spare the DTP by making party closures more difficult. Only if party leadership or the general party convention embraces actions that, through a "constant and intensive" manner, pose a serious danger to the unity of the state could a party be closed under AKP's draft, she said. In addition, these actions must have been done with intent to pose a serious danger. As a further precaution, an official warning would have to be issued prior to the initiation of a closure case.

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